

Supreme Court, U. S.

E I L E D

APR 11 1977

No. 76-1295

MICHAEL PODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1976

BASIL BERNARD FINNEY, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF CLAIMS

MEMORANDUM FOR THE UNITED STATES
IN OPPOSITION

WADE H. McCREE, JR.,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

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The petition for a writ of certiorari was filed out of time. The judgment of the Court of Claims was entered on April 16, 1976. The time for filing a petition for a writ of certiorari was not extended and, accordingly, the 90-day period provided in 28 U.S.C. 2101(c) expired on July 15, 1976. The petition was filed on March 18, 1977.

The time limit imposed by 28 U.S.C. 2101(c) is jurisdictional. *Toledo Scale Co. v. Computing Scale Co.*, 261 U.S. 399, 417-418. Accordingly, the petition should be denied.

Respectfully submitted.

WADE H. McCREE, JR.,
Solicitor General.

APRIL 1977.

DOJ-1977-04